IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 27TH OCTOBER 2006 / 5TH KARTHIKA 1928

Crl.MC.No. 3180 of 2006()

CRIME NO.307/2005 OF ADIMALY POLICE STATION
C.P.NO.23/2006 OF JUDICIAL MAGISTRATE OF THE FIRST CLASS, ADIMALY

PETITIONER: ACCUSED

BABY LUKOSE, AGED 46 YEARS,
S/O.LUKOSE, KALLUVETTAMKUZHIYIL HOUSE,
ADIMALY KARA, MANNAMKANDOM VILLAGE,
DEVIKULAM TALUK, IDUKKI.

BY ADV. SRI.PADAYATTEE YELDO

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
ADIMALY POLICE STATION, THROUGH THE GOVT. PLADER,
HIGH COURT OF KERALA, ERNAKULAM.

2. T.R.RAJAN, AGED ABOUT 39 YEARS,
P.C.U.1553, ADIMALY POLICE STATION.

BY DIRECTOR GENERAL OF PROSECUTION, SRI.P.G.THAMPI
PUBLIC PROSECUTOR, SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

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Crl.M.C. No. 3180 of 2006

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Dated this the 27th day of October, 2006

O R D E R

The petitioner is the accused in Crime No.307/2005 of Adimaly Police Station, with respect to the offence under Sections 308, 283 and 180 of the Indian Penal Code. The matter is now pending as C.P.No.23/2006 on the file of the Judicial Magistrate of the First Class, Adimaly. The petitioner has sought for setting aside the proceedings on the ground that the allegations are false and only because the de facto complainant happened to be a police constable, Section 308 I.P.C has been incorporated.

2. Heard both sides. The Director General of Prosecution has opposed the prayer sought for.

3. The learned counsel for the petitioner at the time of hearing confined his plea to a direction to the court below to consider the aspect, whether, infact, Section 308 I.P.C is attracted.

4. In the circumstances, the Crl.M.C is disposed of with a direction to the court below, to hear the petitioner and consider whether Section 308 I.P.C is attracted on the facts of the case and proceed further as per law.

K.R.UDAYABHANU,
JUDGE

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